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October 24, 2000

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BY HAND DELIVERY

Magalie R. Salas, Secretary
Federal Communications Commission
445 12th Street, S.W.
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**Re: Written *Ex Parte* Presentation by the
Association for Local Telecommunications Services**

**Deployment of Wireline Services Offering Advanced
Telecommunications Capability CC Docket 98-147**

**Implementation of the Local Competition Provisions of the
Telecommunications Act of 1996 CC Docket 96-98**

Dear Ms. Salas:

Pursuant to § 1.1206(b)(1) of the Commission's Rules, and by their undersigned counsel, the Association for Local Telecommunications Services ("ALTS") submits this written *ex parte* presentation regarding the necessity of permitting competitive local exchange carriers ("CLECs") to collocate microwave transmission facilities. In accordance with Section 1.1206(b)(1), four copies of this *ex parte* are being submitted to the Commission Secretary under separate cover for inclusion in CC Dockets 98-147 and 96-98.

Since passage of the Act, various members of ALTS have advocated at both the federal and state level to ensure CLEC rights to collocate microwave transmission facilities for the purpose of interconnection and access to network elements. ALTS intended for its comments filed October 12, 2000, to include a discussion of its members' views on the subject as they relate to the Commission's rulemaking in the above referenced dockets, however, due to last-minute computer difficulties, those views were not included in the comments filed by ALTS.

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This written *ex parte* addresses the discussion of microwave collocation that was to have been included in ALTS's comments.

ALTS urges the Commission to take this opportunity to clarify the application of its collocation rules to the collocation of microwave transmission equipment on ILEC central office rooftops and to update such rules, if necessary. In the *Local Competition Order*, the Commission acknowledged that the collocation requirement of section 251(c)(6) of the Act, in particular, the physical collocation requirement, applies to the collocation of microwave equipment for interconnection purposes.¹ Subsequent orders concerning collocation for local interconnection purposes have not drawn any distinction between the collocation of microwave equipment on central office rooftops and other types of physical collocation.²

Nevertheless, in the experience of ALTS members ILECs have argued in the context of state proceedings that the Commission does not intend for all types of physical collocation for local interconnection purposes to be treated the same. The ILECs base their arguments on conclusions in the Commission's 1994 and 1997 proceedings considering collocation (both physical and virtual) for interconnection of interstate traffic that microwave collocation "does not readily lend itself to uniform tariff arrangements," and that, therefore, ICB arrangements based on *bona fide* requests are a permissible manner in which to handle microwave collocation requests.³

ALTS urges the Commission to conclude that no "microwave collocation exception" is permissible under the Communications Act. NYNEX's defense in the *Expanded Interconnection* proceeding of its ICB tariff provisions for microwave collocation was, as described by the Commission, that "microwave antenna support structures and associated transmitter and receiver space vary greatly depending on the customer's specific needs and therefore it must initially provide ICB service for such features."⁴ At the same time, NYNEX noted that its inability to

¹ Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, 11 FCCR 15499, 15796 (para. 582) (*Local Competition Order*). ALTS notes that this conclusion is not affected by the remand.

² See, e.g., Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket No. 98-147, Order on Reconsideration and Second Further Notice of Proposed Rulemaking, FCC 00-297 (rel. August 10, 2000).

³ See Local Exchange Carriers' Rates, Terms, and Conditions for Expanded Interconnection Through Physical Collocation for Special Access and Switched Transport, Second Report and Order, CC Docket No. 93-162, 12 FCCR 18730, 18751-52 (para. 38) (1997) (*Expanded Interconnection Second Report and Order*) (citing Expanded Interconnection with Local Telephone Company Facilities, 9 FCCR 5154, 5179 (para. 84) (1994) (*Virtual Collocation Order*)).

⁴ *Expanded Interconnection Second Report and Order*, 12 FCCR 18730, 18990 (Appendix E, para. 11).

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offer a generalized tariff for microwave collocation may only be temporary,⁵ a fact predicted by the Commission three years before in the *Virtual Collocation Order*.⁶ In fact, Verizon today has a generalized tariff for microwave collocation in New York that has been in effect for over a year.⁷

ALTS submits that the time for the Commission to reexamine this issue has come. It has been more than three years since the Commission's *Local Competition Order* and almost seven years since the record was initially developed in a proceeding which started well before the enactment of the 1996 Act. At the time the record in the *Expanded Interconnection* proceeding was developed, before the proliferation of 24 GHz, 28 GHz and 38 GHz fixed wireless antennas, microwave antennas did, in fact, vary considerably in size from the larger 4/6 GHz microwave antennas to smaller antennas at higher frequency bands. Such variation arguably required special structural accommodations for large microwave antennas, necessitating ICB treatment for the collocation of such structures.

Today, the microwave antennas that CLECs, such as ALTS's members, seek to deploy and collocate on the rooftops of ILEC central offices tend to be less than two feet in diameter and require no special structural engineering considerations.⁸ The Commission already possesses extensive evidence in this record (as part of CC Docket No. 96-98), submitted in the context of competitive building access, concerning the engineering characteristics of CLEC wireless antennas. Further development of the record is not necessary. The remainder of the elements

⁵ *Id.*

⁶ *Virtual Collocation Order*, 9 FCCR at 5179 (para. 84).

⁷ NYPSC No. 914, Section 5.3.

⁸ See, e.g., Promotion of Competitive Networks in Local Telecommunications Markets; Wireless Communications Association International, Inc. Petition for Rulemaking to Amend Section 1.4000 of the Commission's Rules to Preempt Restrictions on Subscriber Premises Reception or Transmission Antennas Designed To Provide Fixed Wireless Services; Cellular Telecommunications Industry Association Petition for Rule Making and Amendment of the Commission's Rules to Preempt State and Local Imposition of Discriminatory And/Or Excessive Taxes and Assessments; Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, WT Docket No. 99-217, CC Docket No. 96-98, Comments of WinStar Communications, Inc. at 9 (filed Aug. 27, 1999) ("WinStar's antennas are small and unobtrusive and only require a small portion of space on a rooftop. In fact, WinStar's antennas are roughly the size of a medium pizza (12 to 24 inches in diameter) and are placed on four foot poles."); Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, CC Docket No. 98-146, Comments of Teligent, Inc. at 3 (filed Sept. 14, 1998) ("Most of the Teligent antennas are very small -- about 12 inches in diameter and smaller than a DBS home receiver.").

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necessary for microwave collocation are no different than those elements already part of ILECs' standard collocation offerings.

Accordingly, ALTS submits that there is no longer justification for disparate treatment of microwave collocation as opposed to other types of physical collocation. CLECs seeking to interconnect to ILECs via rooftop microwave collocation should not be left behind as the Commission updates its collocation rules.

ALTS thanks the Commission for the opportunity to bring additional focus to the issue of microwave collocation in the instant proceeding and welcomes comments by other interested parties. To that end, ALTS is serving copies of this *ex parte* presentation on all parties that filed initial comments in this proceeding. Notice of this written *ex parte* presentation will be filed today in the above referenced dockets.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I, Charles M. Hines III, hereby certify that a true and correct copy of the foregoing **“Written Ex Parte Presentation by the ALTS; CC Docket Nos. 98-147 & 96-98”** was delivered by overnight delivery or first-class mail this 24th day of October, 2000 to the individuals on the following list:

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